

I. Purpose of document

This document is intended to set forth the Department's policy regarding the Site Remediation Reform Act (SRRA) requirement to complete the remedial investigation of the entire contaminated site before May 7, 2014 (N.J.S.A. 58:10C-27a(3)). Specifically, SRRA states:

"The department shall undertake direct oversight of a remediation of a contaminated site under the following conditions: ... unless a longer period has been ordered by a court, the person responsible for conducting the remediation has, prior to the date of enactment of N.J.S.A. 58:10C-1 et seq., failed to complete the remedial investigation of the entire contaminated site 10 years after the discovery of a discharge at the site and has failed to complete the remedial investigation of the entire contaminated site within five years after the date of enactment of N.J.S.A. 58:10C-1 et seq."

This document addresses:

- To what the May 7, 2014 deadline applies
- What "entire contaminated site" means
- What "complete the remedial investigation" means
- What "nature and extent of the contamination" means
- The need to attain remediation standards prior to issuance of a Response Action Outcome

II. To what the May 7, 2014 deadline applies

The May 7, 2014 deadline applies to:

- All discharges/contaminated areas of concern (CAOCs) at the site where the contamination was identified on or before May 7, 1999, **and**
- All discharges/CAOCs at the site where the contamination should have been identified due to an obligation to complete a preliminary assessment and/or site investigation on or before May 7, 1999, pursuant to the Industrial Site Recovery Act Rules (N.J.A.C. 7:26B), the Underground Storage of Hazardous Substances Rules (N.J.A.C. 7:14B), an Administrative or Court Order, Remediation Agreement, or a Spill Act Directive.

III. What "entire contaminated site" means

For the purposes of the May 7, 2014 deadline, "entire contaminated site" means the discharges/CAOCs described in II above, which include all portions of environmental media and any location where contamination is emanating, or which has emanated there from, that contain one or more contaminants at a concentration above any remediation standard or screening criterion.

- Environmental media include soil, ground water, surface water, sediment, and air.
- Contamination "...which has emanated there from..." includes onsite discharges that have migrated or are migrating offsite.

IV. What "complete the remedial investigation" means

For the purposes of defining "complete the remedial investigation" for this document, the Department is using the statutory definition found in SRRA:

"Remedial investigation" means a process to determine (1) the nature and extent of a discharge of a contaminant at a site or a discharge of a contaminant that has migrated or is migrating from the site, (2) the problems presented by a discharge, and may include data collected, site characterization, sampling, monitoring, and (3) the gathering of any other sufficient and relevant information necessary to determine the necessity for remedial action and to support the evaluation of remedial actions if necessary." (**NOTE:** numbers in parentheses do not appear in the statutory definitions; they are added to help interpret the following)

In order for the Department to consider the remedial investigation complete, the following must be determined:

- (1) The nature and extent of a discharge of a contaminant both on and off site;
- (2) The impacts and potential impacts to receptors presented by the discharge; and
- (3) The need for a remedial action, and, if one is necessary, collection of information to support the evaluation of possible remedial actions.

Completion of the remedial investigation is demonstrated by the submission of the following:

- (1) A remedial investigation report pursuant to the Technical Requirements (N.J.A.C. 7:26E- 4.9) (Note: this covers the nature and extent of the discharge of a contaminant);
- (2) An updated receptor evaluation as part of the remedial investigation report (N.J.A.C. 7:26E-4.9(a)2) (Note: this covers the problems presented by the discharge); and
- (3) A determination of whether a remedial action is required for the site/CAOC pursuant to the Technical Requirements (N.J.A.C. 7:26E-4.9(a)6ii(2)) (Note: this covers determining the necessity for remedial action and to support the evaluation of remedial actions if necessary).

From a performance-based perspective, a remedial investigation can be considered complete when the LSRP in his or her professional judgment can conclude (1) there is sufficient information to know the nature and extent of a discharge of a contaminant both on and off site (2) there is sufficient information to know which, if any, receptors have been or may be impacted by the discharge being remediated, and (3) additional delineation is not necessary in order to select appropriate remedial action(s) to protect public health and the environment.

V. What “nature and extent of a discharge of a contaminant” means

The Department interprets “the nature and extent of a discharge of a contaminant” to mean: delineation to the applicable remediation standards at the time the remedial investigation report is submitted. “Delineation” is not defined in the Technical Requirements or any applicable statute. For the purposes of N.J.A.C. 7:26E-4.1(a)1 (horizontal and vertical extent of contamination) and N.J.A.C. 7:26E-4.1(a)2 (aquatic surface water quality standard and ecological screening criterion), the Department strongly emphasizes that delineation does not mean that “clean zone” samples indicating contaminant concentrations are at or below the applicable standards are required for all environmental media to complete the remedial investigation.

The licensed site remediation professional (LSRP) should use applicable regulations, guidance, and professional judgment to determine when sufficient data exist to demonstrate “the nature and extent of a discharge of a contaminant.” The LSRP is allowed to employ multiple lines of evidence, including, but not limited to, analytical data indicating that contaminant concentrations are at or below the applicable remediation standards; extrapolation or modeling based on existing data; application of conceptual site models; or other means for determining the extent of the contamination. The remedial investigation report should include information documenting how the LSRP determined the nature and extent of the contamination.

VI. Attainment of remediation standards / Issuance of Response Action Outcome

Even though the remedial investigation does not need to include delineation to the “clean zone,” such sampling is required to demonstrate attainment of the applicable remediation standards at the conclusion of the remedial action and prior to the issuance of the Response Action Outcome (RAO).